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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,316	03/01/2002	James R. Fore SR.	4287-008	8488

24112 7590 09/15/2003

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EXAMINER

HAUGLAND, SCOTT J

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,316

Applicant(s)

FORE ET AL.

Examiner

Scott Haugland

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10-19 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 June 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to because the linking of drawing figures (note Figs. 7 and 8) is not permitted. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The proposed drawing correction filed 6/30/03 has been approved.

Specification

Claim 22 is objected to because of the following informalities:

It appears that "form" should be "formed" on line 6 and "the" should be deleted from line 7.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Fore (U.S. Patent No. 5368245).

Fore discloses a pay-out tube for use with a cable container comprising a tube 14 adapted to extend into the interior of the cable container for permitting cable to be fed through the tube, a fastener 34 adapted to be secured to the tube such that a portion of it lies exteriorly of the container, and a cable retainer 32, 36 adapted to be disposed exteriorly of the container for receiving and retaining an end portion of the cable. The cable retainer includes a surface divided by a slot (between 32 and 36) that forms two sections 32, 36, one which is deflectable relative to the other into an open state in response to insertion of the end of the cable between the sections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-16 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fore (U.S. Patent No. 5,152,476) in view of Heyman (U.S. Patent No. 3,516,111).

Fore discloses a pay-out tube for use with a cable container comprising a tube 14 adapted to extend into the interior of the cable container for permitting cable to be fed through the tube and a fastener 34 adapted to be secured to the tube such that a portion of it lies exteriorly of the container.

Fore does not disclose a cable retainer including a slit surface that has a series of deflectable sections.

Heyman teaches providing a cable retainer 1 having a slit surface having a series of eight deflectable sections 7 which deflect open in response to the insertion of an end of a cable between the sections for retaining and

Art Unit: 3654

protecting a cable passing through a wall or panel (col. 1, lines 23-26; col. 2, lines 25-28) in which the retainer is mounted.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the container of Fore in association with a bushing through which cable is passed as taught by Heyman to retain and protect cable removed from the container of Fore and passed through a wall or panel during installation of the cable.

With regard to claims 14-16, the claimed method is inherent in the use of Fore and Heyman together for their intended purposes. Note that an end portion of cable would be retained by the retainer taught by Heyman during the cable installation process.

Claims 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bass et al (U.S. Patent No. 5,520,347) in view of Newman et al (U.S. Patent No. 4,057,203).

Bass et al discloses a pay-out tube for use with a cable container of figure-8-wound material comprising a molded tube portion 33 (abstract; col. 4, lines 7-10) for guiding cable having a wall into which a series of spaced-apart, longitudinally disposed, radially outwardly extending ribs are integrally molded (abstract; col. 5, lines 25-28). The thickness of the ribs exceeds that of the wall (Fig. 2).

Bass et al does not disclose that the tube is elliptical.

Newman et al teaches forming a pay-out tube for use with a container of wound material with an elliptical (oval) cross section to better fit the space provided within a figure 8 coil of wound material in the package.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cross section of the pay-out tube of the Bass et al elliptical as taught by Newman et al to adapt it to better fit the space provided within a coil of figure-8-wound material.

Allowable Subject Matter

Claims 1-9 allowed.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicants' arguments filed 6/30/03 have been fully considered but they are not persuasive.

Applicants' arguments with respect to claims 17-19 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Applicants argue that a bushing such as the bushing of Heyman is a metal lining. However, the term as used in Heyman refers to a device similar to a grommet. It is disclosed as being made of plastic (hatching, fig. 1; col. 1, line 51; col. 2, lines 35-36). It is disclosed for use in protecting wires or tubes passing through a wall or panel in which it is mounted (col. 1, lines 23-26; col. 2, lines 25-28).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (703) 305-6498. The examiner can normally be reached on Monday - Thursday and every second Friday.

Art Unit: 3654

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


sjh
9/9/03



KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600